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| EXAMINER |
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NELSON, FREDA ANN

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3628

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/757,637 | Applicant(s) KWOH, DANIEL | |
| | Examiner FREDA A. NELSON | Art Unit 3628 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 17, 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-18 and 20-24 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment received on January 17, 2008 is acknowledged and entered. Claims 7-9 and 19 have been canceled. Claims 1, 4-5, 10, 16-17, and 22-23 have been amended. Claim 24 has been added. Claims 1-6, 10-18, and 20-24 are currently pending.

Response to Amendment and Arguments

Applicant's arguments filed January 17, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that "comparing data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data to determine if the data is consistent" is neither taught nor suggested nor are an obvious result from a reasonable combination of the teachings in the reference Rozell et al., the Examiner respectfully disagrees. Rozell et al. discloses in the context of a rate within a star quality index, properties with the same star rating may be used to derive the weighted average rate, and respect to the rate within a market index, a cluster may be expanded to the general area and a second index may be created; and note that this may apply in scenarios where the metropolitan area is large enough to create sub-clusters. In order to account for a value metric, a value to retail index may also be created. Using shopping data acquired via any suitable source (e.g. Travelaxe software) the competitive "win-loss percentage" may then be derived. A given rate associated with one entity (e.g. Travelweb.com) may be compared

Art Unit: 3628

independently against other entities (e.g. Expedia and Hotels.com) for a variety of dates
(¶ [0057])

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, the examiner is unable to determine by the claim language “comparing data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data” what the data is that is being compared.

As per claims 4-5 the examiner is unable to determine if “the comparison” is based on data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data” as recited in claim 1, or the comparison of the cruise rating with the pricing data recited in claim 4.

Claims 4-5 recites the limitation "the comparison" in lines 4, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozell et al. (US PG Pub. 2005/0004830).

As per claim 1, Rozell et al. discloses electronically obtaining pricing data (§ [0037]);

identifying one or more price affecting factors (§ [0023],[0029]); and
calculating, using a processor, one or more correlation coefficients for each of the one or more price affecting factors (§ [0023],[0029]);

comparing data based on the calculated one or more correlation coefficients and the one or more price affecting factors with the pricing data to determine if the data is consistent; and

calculating a rating based on the pricing data, the one or more price affecting factors, and the one or more correlation coefficients (§ [0023],[0029],[0051]).

Rozell et al. do not expressly disclose that the pricing data is for cruises calculating a cruise rating.

However, Rozell et al. discloses that for example, although the present invention has been described as operating in a hotel accommodation environment, any suitable

Art Unit: 3628

business endeavor may benefit from the teachings of the present invention; for example, a rental-car company may use system 10, whereby a series of indices are provided in order to direct or control a marketability index score wherein the score could be based on similar components (as identified herein) or use other suitable parameters for evaluating a given *set of travel accommodations*; and similarly, various other suitable business structures or reservation-based operations that seek to secure suitable accommodations may benefit from the teachings of system 10.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of evaluating travel accommodations of Rozell et al. to include the feature of rating cruises to provide the user with ratings for a variety of travel accommodations, including cruises.

As per claim 2, Rozell et al. discloses the method of claim 1, wherein the one or more price affecting factors are comprised of at least one of price, season, cruise itinerary, cruise length, at least one port of call, geographic region, port of embarkation, port disembarkation, date of sail, proximity to a holiday, proximity a school break, and ship's age (¶ [0008],[0022],[0037],[0053],[0059]).

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rozell et al. (US PG Pub. 2005/0004830), in view of Laufer (US PG Pub. 2004/0006507).

As per claim 3, Rozell et al. does not disclose that the predetermined time is at least one year.

However, Laufer discloses that the hotel/timeshare facility may be land-based or may be sea or air-based as well (§ [0049]); “Hotel” as defined herein thus may include a cruise-ship or airline selling cabins or seats for specific cruises or flights (paragraph [0016]); and the peak period timeshares may include the right to use during intervals and may be valid for at least three years (§ [0016], [0031], [0037][0038]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify the method of Rozell et al. to include the predetermined time period time of at least one year as disclosed in Laufer in order to provide an average).

3. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozell et al. (US PG Pub. 2005/0004830), in view of Sprenger et al. (US PG Pub. 2003/0040946).

As per claims 4-5, Rozell et al. disclose the method of claim 1, further comprising: after calculating the cruise rating, comparing the cruise rating for each of the one or more cruises with the pricing data over a period of time (§ [0057],[0063]-[0064]).

Rozell et al. does not disclose if the comparison exceeds a predetermined value; and calculating a new cruise rating based on the pricing data and the identified one or more additional correlation; and identifying one or more additional correlation between the pricing data and at least one price affecting factor; and calculating a new cruise rating based on the new pricing data and the identified correlation if the comparison does not exceed a predetermined value.

However, Sprenger et al. disclose that some activities have elements of other components, for example a cruise includes both travel and lodging (§ [0003]). Sprenger et al. further disclose that if the user has chosen a price or price range (i.e. a budget) before reaching the vacation preferences page (or while providing information to such page), the services shown may be determined as services available based on price. Sprenger et al. still further disclose that services that are returned by VPS 26 throughout the development of the travel plan that, when selected, exceed the budget, cause VPS 26 to prompt the user to reconsider (for example, to choose another price range or select another service) (§ [0107]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to the modify the interactive interface of Rozell et al. to include the price threshold feature of Sprenger et al. to provide the user with a range of options appropriate for the user while giving the user the option to change parameters.

As per claim 6, Rozell et al. does not disclose determining the average price index for one or more cruise ships.

However, Sprenger et al. disclose that if user 10 is “middle of the road”, the average price (of all the services available) is determined, and options for services are shown in order of increasing variance from the average. Sprenger et al. disclose that once user 10 chooses a value for each of the lodging parameters, user 10 will be able to see the services available meeting the values of the parameters by pressing the “Search” button on the “Lodging Preferences” page. For each available service for

Art Unit: 3628

lodging, in addition to its name, its specifications (such as type, location and average price per night), and total price for the duration of the stay, are displayed on the "Lodging Selection" screen (as seen in FIG. 6) (¶ [0266]).

Therefore, it would have been obvious to modify the Rozell et al. system to include the average price index feature of Sprenger et al. in order to provide the customer with different ways of comparing prices.

Examiner's Note

Examiner cited particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Allowable Subject Matter

4. Claims 10-18 and 20-23 are allowed.
5. The following is an examiner's statement of reasons for allowance:

A) the prior art for example:

(1) Rozell et al. (US PG Pub. 2005/0004830), disclose a system and method for indexing travel accommodations in a network environment.

(2) Laufer (US PG Pub. 2004/0006507), disclose a method for operating a combined hotel/limited time share facility.

(3) Sprenger et al. (US PG Pub. 2003/0040946), disclose a travel planning system and method.

However, in regard to claims 10-18 and 20-23, the prior art does not teach or suggest specific manner in which the cruise price being charged is evaluated.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3628

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday-Friday 10:00am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A. N./
Examiner, Art Unit 3628
4/25/2008

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628